IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 15 OF 1992.

The Commissioner of Income-Tax ... Applicant.

V/s.

Dr. I.B.Panchal, Bombay ... Respondent.

Parag Vyas i/b. K.C.Sidhwa
for the applicant-revenue.

CORAM : V.C.DAGA AND A.S.AGUIAR, JJ.

DATED : 11th August 2005.

P.C. :

. In spite of grant of sufficient time, no steps have been taken by the applicant-revenue to effect service of this reference on the respondent-assessee. The assessment year involved is 1981-82. The reference is pending in this Court since 1992. Presently, we are in 2005. Almost 13 years have passed. No attempt is made to effect service of this reference on the respondent-assessee. This is a case wherein Revenue itself is not interested in protecting its own interest.

2. It is no doubt true that the question sought to be referred by this reference is covered by the judgment of this Court in the case of **Insight Diagnostic and Oncological Research Institute Pvt.Ltd. v. Deputy C.I.T.**, (2003) 262 ITR 41 in

favour of Revenue. However, in absence of service on the respondent-assessee, the decision of this reference in favour of the revenue would be clearly in breach of principles of natural justice. In this view of the matter, we are left with no option but to return this reference unanswered.

3. Incidentally, it may not be out of place to mention that the tax effect in this case would hardly be of Rs.17,000 to 18,000, if at all the revenue succeeds. In that view of the matter, this reference can also be disposed of applying the ratio of the judgment of this Court in the case of **C.I.T. v. Camco Colour Co.**, (2002) 254 ITR 565.

4. We, thus, for the aforesaid reasons, return the reference unanswered with no order as to costs.

(A.S.AGUIAR, J.) **(V.C.DAGA, J.)**